

January 29, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L03P0009**
Proposed Ordinance No. **2004-0011**

LAKEMONT COURT
Preliminary Plat Application

Location: North of Southeast 45th Place and west of 160th Avenue Southeast

Applicant: Merritt Development LLC, *represented by*
John Nelson
Peterson Consulting Engineers
4030 Lake Washington Boulevard Northeast, #200
Kirkland, WA 98033
Telephone: (425) 827-5874

King County: Department of Development and Environmental Services, *represented by*
Kim Claussen
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7167
Facsimile: (206) 296-6728

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approved, subject to conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	January 27, 2004
Hearing Closed:	January 27, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. **General Information:**

Owner: Ed Short
12633 Issaquah-Hobart Road SE
Issaquah, WA 98027

Developer: Merritt Development LLC
10208 NE 26th Street
Bellevue, WA 98004
(425) 822-5981

Engineer: Peterson Consulting
4030 Lake Washington Blvd. NE, Suite 200
Kirkland, WA 98033
(425) 827-5874

STR: 14-24-05

Location: The site is located on the north side of SE 45th Place, east of 160th Avenue Southeast.

Zoning: R-6
Acreage: 1.85 acres
Number of Lots: 9 lots
Density: Approximately 4.86 units per acre
Lot Size: Ranges from approximately 6,500 to 7,400 square feet
Proposed Use: Single-family detached dwellings
Sewage Disposal: City of Bellevue
Water Supply: City of Bellevue
Fire District: City of Bellevue
School District: Issaquah School District
Complete Application Date: April 22, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the January 27, 2004 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions. Page 2 of the staff report should be corrected to indicate that a determination of non-significance under SEPA was issued for the proposed project on December 22, 2003, not a mitigated determination as stated in the report.
3. Merritt Development LLC has submitted a preliminary plat application to subdivide 1.85 acres into 9 lots for single-family residential development. The property is located southwest of Lake Sammamish and south of I-90 within a suburban neighborhood lying east of the Eastgate commercial area. The Bellevue city limit lies adjacent to the property to the south.

4. Although a small development, the Lakemont Court preliminary plat application has been required to address a number of design and mitigation issues. These include level 2 flow control, upgraded water quality treatment and a diversion adjustment for site surface water flows which eventually release to Lake Sammamish. In addition, a road variance has been granted to eliminate a mid-point turn-around requirement on the access road cul-de-sac along the plat's southern boundary.
5. The geotechnical report dated April 4, 2003 by Geotech Consultants Inc. indicates the existence of a very dense siltstone layer at a depth of 5-10 feet below the ground surface. The siltstone layer results in a perched groundwater table at relatively shallow depths, particularly on the western half of the property where 5 of the excavated test pits reported light to moderate groundwater seepage. The geotechnical report sets out a fairly elaborate menu of interceptor and foundation drains that may be required for site construction and recommends that a further geotechnical evaluation be performed after preliminary site grading has occurred. A condition specifying geotechnical review as described within the report has been appended to the staff conditions.
6. The only neighborhood testimony offered at the public hearing was from Paul Tollefson, a nearby property owner. His primary concern was regarding management of construction traffic on the private road system accessing the plat. A satisfactory arrangement governing construction traffic appears to have been negotiated with the Applicant, but implementation of a formal haul route plan remains a possibility if needed.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for Lakemont Court, as revised and received on December 5, 2003, is **APPROVED**, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion

of the Department of Development and Environmental Services.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."
 - d. Storm water facilities shall be designed using the KCRTS level 2 flow control standard. Water quality facilities shall also be provided using the sensitive lake protection menu as outlined in the drainage manual. A public drainage easement shall be dedicated to King County within Tracts D and C to allow public access and maintenance of the drainage facilities. All stormwater conveyance facilities shall be located within drainage easements and/or private covenants as required by the King County drainage manual.
 - e. Structural design plans shall be submitted to King County for review of the proposed detention vault and sand filter. A geotechnical report shall also be provided to evaluate standard design requirements including groundwater dewatering and soil compaction for the vault foundation.
 - f. The applicant has received approval for the requested diversion of surface water within the project (See Variance File L03V0054). The conditions for variance approval shall be satisfied during design and review of the project engineering plans.

- g. As shown on the preliminary plat, an existing drainage easement and slope easement are located in the western portion of the site. The easements shall be shown on the final engineering plans and recorded plat and the applicant shall submit copies of the easement language with the submittal of engineering plans. Any proposed construction within the easements may require a special use permit from King County. The applicant can coordinate the applicable requirements and procedures with DDES during final engineering review.
- 7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. Southeast 45th Place is an existing urban road and further improvements along the plat frontage are not required. During preliminary review the applicant submitted a road variance application (File No. L03V0051), regarding the requirement for a mid-length turnaround along the proposed cul-de-sac street. The variance received conditional approval on August 22, 2003 and determined that a mid-length bulb is not required.
 - b. For construction of the offsite portion of SE 45th Place, the applicant shall submit a written agreement signed by the affected property owner to allow construction of the proposed roadway. Prior to or concurrent with recording the plat of Lakemont Court, the applicant shall dedicate public right-of-way for the offsite portion of SE 45th Place including the permanent cul-de-sac bulb. As an alternative to right-of-way dedication, a temporary public road easement may be dedicated to King County until the adjoining property subdivides and dedicates the required public right-of-way. The offsite roadway shall be improved as an urban subaccess street.
 - c. Tracts A and B shall be designed as joint use driveways serving lots 2-3 and 6-7. The serving lots shall have undivided ownership of each tract and be responsible for its maintenance. Notes to this effect shall be shown on the engineering plans and final plat. Improvements shall conform to KCRS 3.01C which include a minimum tract width of 20-feet and an 18 foot paved surface with curb or thickened edge on one side. The joint use driveways shall be lengthened to allow 20 feet of lot frontage where the driveways will connect into the tract.
 - d. Tract C shall be improved for roadway and pedestrian access to the stormwater facilities and recreation space within Tract D. The preliminary plat shows Tract C as a joint use driveway; however, since the tract does not serve two residential building lots, the tract may be revised to provide a 12-foot wide paved surface. If Tract C is also used for access to Lot 9, an easement for ingress/egress/utilities shall be provided within Tract C. Tract C shall be owned and maintained by the plat homeowners association or other organization if approved by DDES.
 - e. Additional right-of-way shall be dedicated as necessary along the frontage to allow a minimum of one-foot right-of-way behind the existing curb for SE 45th Place.
 - f. Prior to or concurrent with plat recording, the applicant shall vacate any easement rights which allow northerly road access via 160th Place SE.
 - g. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.

- h. Modifications to road design standards may be considered by King County pursuant to the variance procedures in KCRS 1.08.
- 8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
- 9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
- 10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
- 11. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the private road, open space and sensitive area tract(s).
- 12. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if SE 224th St. is on a bus route. If so, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
13. The existing well easement in the northwestern portion of the site shall be abandoned to the satisfaction of DDES prior to final plat approval. If the easement cannot be abandoned, the property shall abide by the conditions, covenants and restrictions contained within the existing easement, unless other alternatives are approved by DDES prior to final plat approval. This may result in the reconfiguration and/or loss of lots.
14. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 (390 square feet per lot) and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
- a. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.), shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plans. This plan shall include improvements consistent with KCC 21A.14.180 E2 (tot lot, play equipment, sport court(s), etc.) Note, fencing may be required, depending upon the finished grades of the tract and/or vault.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
15. Due to a high groundwater table, interceptor and foundation drains may need to be installed at the site as detailed in the April 4, 2003 geotechnical report. Procedures for groundwater removal shall be addressed in the engineering plans, which shall require inspection by a geotechnical engineer after preliminary site grading has occurred.

ORDERED this 29th day of January, 2004

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 29th day of January, 2004, to the following parties and interested persons:

Carol Brossier
4531 - 160th Pl. SE
Issaquah WA 98027

Dan & Eunice Choi
16014 SE 45th Pl.
Issaquah WA 98027

Crestmont HOA
Attn: Steve Lawson
P.O. Box 2185
Issaquah WA 98027

Scott Greiwe
16127 SE 45th Ct.
Issaquah WA 98027

Gwendolyn High
P.O. Box 2936
Renton WA 98056

Victor & Gwendolyn High
13405 - 158th Ave. SE
Renton WA 98059

Ron Matthew
16110 SE 46th Way
Bellevue WA 98006

Jim Merritt
10208 NE 26th St.
Bellevue WA 98004

Peterson Consulting Engineers
4030 Lk. WA Blvd., #200
Kirkland WA 98033

Seattle KC Health Dept.
E. Dist. Environ. Health
14350 SE Eastgate Way
Bellevue WA 98007

George Edward Short
12633 Issaquah-Hobart Rd.
Issaquah WA 98027

Richard Symms
16059 SE 45th Pl.
Bellevue WA 98006

Paul Tollefson
4520 - 160th Place SE
Issaquah WA 98027

Greg Borba
DDES/LUSD
MS OAK-DE-0100

Laura Casey
DDES/LUSD
Wetland Review
MS OAK-DE-0100

Kim Claussen
DDES/LUSD
Current Planning
MS OAK-DE-0100

Peter Dye
DDES/LUSD
Engineering Review
MS OAK-DE-0100

Kristen Langley
DDES/LUSD
Land Use Traffic
MS OAK-DE-0100

Carol Rogers
DDES/LUSD
MS OAK-DE-0100

Steve Townsend
DDES/LUSD
Land Use Inspections
MS OAK-DE-0100

Larry West
DDES/LUSD
Geo Review
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before February 12, 2004***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before February 19, 2004***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 27, 2004, PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03P0009.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen and Pete Dye, representing the Department; and John Nelson, representing the Applicant, and Paul Tollefson.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File No. L03P0009
- Exhibit No. 2 DDES Preliminary Report dated January 27, 2004
- Exhibit No. 3 Application dated April 22, 2003
- Exhibit No. 4 Environmental Checklist dated April 22, 2003
- Exhibit No. 5 Declaration of Non-significance dated December 22, 2003
- Exhibit No. 6 Affidavit of Posting indicating June 20, 2003 as date of posting and June 24, 2003 as the date the affidavit was received by the Department of Development and Environmental Services. Notice of Application
- Exhibit No. 7 Plat Map dated December 5, 2003 (Revision)
- Exhibit No. 8 Land Use Map 552E
- Exhibit No. 9 Assessors Maps SE 14-24-05
- Exhibit No. 10 Level 1 Drainage Analysis by Peterson Consulting dated April 21, 2003
- Exhibit No. 11 Wetland Assessment by Wetland Resources dated December 2, 2002
- Exhibit No. 12 Geotechnical Study by Geotech Consultants dated April 4, 2003
- Exhibit No. 13 Conceptual Drainage Plan by Peterson Consulting
- Exhibit No. 14 Drainage Course Information by Peterson Consulting dated September 3, 2003
- Exhibit No. 15 Conceptual Recreation Space Plan Received October 17, 2003
- Exhibit No. 16 SWDM Adjustment Decision (File No. L03V0054) dated October 2, 2003
- Exhibit No. 17 Off-site Right-of-way Agreement received October 17, 2003
- Exhibit No. 18 KCRS Variance (File No. L03V0051) dated August 22, 2003
- Exhibit No. 19 School Walkway Map by Peterson Consulting received October 17, 2003
- Exhibit No. 20 Well Easement
- Exhibit No. 21 Revised Condition 13

SLS:gao
L03P0009 RPT